

**TENNESSEE RULES OF COURT
SHELBY COUNTY
LOCAL
RULES OF PRACTICE
RULES OF THE CIRCUIT COURT
OF TENNESSEE
FOR THE
THIRTIETH JUDICIAL DISTRICT
AT MEMPHIS,
SHELBY COUNTY**

Current with amendments received through 7/1/1999.

INTRODUCTION

For the purpose of coordinating and complying with the Tennessee Rules of Civil Procedure and to establish workable guidelines consistent with fairness, where not in conflict with the Rules of Civil Procedure, it is ordered that the following rules be and the same are hereby adopted by the Circuit Court of Tennessee for the Thirtieth Judicial District at Memphis, Shelby County.

**RULES FOR THE CIRCUIT COURT OF TENNESSEE
FOR THE THIRTIETH JUDICIAL DISTRICT
AT MEMPHIS, SHELBY COUNTY***

Current with amendments received through 7/1/1999.

RULE ONE. COURTROOM PROCEDURE

(a) All Judges will wear judicial robes, during all sessions of their courts, except when, at the discretion of a Judge, a matter before a court is of such nature as justifies an informal hearing.

(b) All persons in the courtroom will stand while the court is being opened and while the court is being adjourned or recessed.

(c) All orders, judgments and decrees will be handed to the court through the court attendants, and lawyers will not approach the Bench from the Bar except when directed by a Judge.

(d) There will be no reading of non-legal writings and there will be no smoking nor holding of cigars, cigarettes or pipes in the hand or mouth, nor eating of food, in the courtroom.

(e) All lawyers and court attendants will be appropriately attired while in attendance upon court, as upon important, solemn semi-formal occasions, and shall not be groomed or attired in a manner reasonably

calculated to distract attention from the proceedings and call attention to themselves. All other persons attending court shall be fully clothed and dressed and groomed in accordance with their circumstances and abilities so as not to show disrespect to the court or distract attention from the court proceedings.

(f) Upon a Judge entering a courtroom preparatory to the formal opening of court, the Sheriff will call the courtroom to order, directing all in attendance upon court to stand, and upon being so instructed by the court, will open court in substantially the manner following:

"Hear Ye! Hear Ye! This Honorable Division ____ of the Circuit Court of Tennessee for the Thirtieth Judicial District at Memphis is now open for the transaction of business pursuant to adjournment; all persons having business with this court draw near, give attention, and ye shall be heard. Be seated please."

(g) Only attorneys at law (or law students certified by the Supreme Court of the State of Tennessee and the Circuit Judge before whom they appear, and to the extent so certified), and litigants, where not represented by counsel, shall be allowed to appear in various matters coming before the court. Whenever addressing the court, counsel or litigants shall rise and remain standing while making an objection, argument or statement to the court, including such time as the court may be interrogating counsel or making observations to him or her. Counsel are not required to stand while interrogating witnesses, but may do so at counsel's option.

(h) Upon a Judge instructing the Sheriff to adjourn court for the day, the Sheriff will direct all in attendance upon court to stand, as will the Judge, and will adjourn court in substantially the manner following:

"This court now stands adjourned until tomorrow morning at _____ o'clock (or until a day certain)".

(i) Sheriffs in attendance upon courts will be charged with the responsibility for requiring compliance with these standards of courtroom conduct and deportment.

(j) The guidelines of Professional Courtesy adopted by the Memphis Bar Association shall be followed (see Appendix I). Attorneys and persons attending court shall be treated with courtesy and shall be addressed by their courtesy title (as "Mr.", "Ms.", "Mrs.", "Dr." etc.), and not by their first names.

[Effective July 1, 1995.]

RULE TWO. SESSIONS OF COURT

The court shall convene Mondays through Thursdays at 10:00 a.m. and adjourn at 4:30 p.m., provided, that the court may also specially set matters for any other time, and that the hours of court may be extended to meet the needs of a particular case. On Fridays, the court shall convene to hear legal motions at 9:00 a.m. and other matters thereafter. Uncontested divorces shall be heard at 9:00 a.m. on Wednesdays.

[Effective July 1, 1995.]

RULE THREE. FILING OF PLEADINGS

(a) All pleadings, orders, decrees, memoranda, and other papers submitted for consideration or action by the court shall be captioned "IN THE CIRCUIT COURT OF TENNESSEE FOR THE THIRTIETH JUDICIAL DISTRICT AT MEMPHIS, SHELBY COUNTY". (FN*)

(b) All pleadings, including orders and decrees, shall be typewritten with black ink in double space, upon legal size paper leaving a blank margin of one and one quarter (1 1/4) inches on each side of every page. Each pleading shall show the number of the case, with the proper docket suffix (R.D. or T.D.),

the style of the case, the general nature of the paper filed, and the name, address and telephone of the attorney filing said pleading, and the filing attorney's Tennessee Supreme Court Registration Number. All such documents shall be in the English language. T.C.A. § 4-1-404.

[Effective July 1, 1995.]

RULE FOUR. CALENDARS AND ASSIGNMENTS OF CASES

(a) The Non-Jury term shall be held in the latter part of each term and shall be for such period as the business of the court requires and as fixed by the judges from time to time, and a Non-Jury Calendar shall be published by the clerk giving the dates upon which cases are set during such term.

(b) A calendar of the jury cases to be set for trial each term shall be published for each division at least one week before the calendar is called for setting and upon the calling of the calendar the cases are set for trial upon a day certain.

(c) All cases filed and placed on any docket and cases appealed from the General Sessions Court, the Municipal and Juvenile Court or certified from the Probate Court shall be assigned for trial by the clerk under the supervision of the judges. The cases shall be assigned by the clerk insofar as practicable so as to make the work in each division equal.

Whenever it is apparent from the names of the parties or the style of certain cases and from the identity of counsel in such cases that the said cases will probably be tried together, the clerk shall assign such cases to the same division.

(d) All cases set for trial will be tried or dismissed on the day upon which they are set for trial, or upon proper showing of either party may be continued.

(e) Whenever any case has been assigned to or tried before any Judge of the court, and comes on for a trial or retrial as the result of a non-suit, mistrial, reversal, setting aside of a verdict, or dismissal on some ground not going to the merits, then such case shall be assigned for any subsequent trial or trials to the division of the court presided over by the Judge before whom the case was previously pending, unless good cause be shown to the contrary.

Any attorney who files or is counsel in any cause designated herein shall inform the clerk of the Circuit Court of such filing and the clerk shall assign the cause to the court in which the prior cause was filed.

(f) All new cases filed, including proposed settlements and requests for writs, shall be assigned immediately by the clerk by a random method (calculated to distribute cases evenly) to a division of this court. Provided, that in the case of divorces, the Circuit Court Clerk shall assign them in the same manner to both Circuit and Chancery Courts, according to the agreement with that court.

Where a divorce has already been filed, any petition or motion for a protective order or an injunction involving the same parties shall be assigned to and heard by the division of court to which the divorce is assigned.

(g) Settlements may be presented to the court for approval at the opening of court on any day of the week.

RULE FIVE. MOTIONS GENERALLY

(a) The clerk shall keep in his office a well bound book for each division of the court which will be entitled "Motion Docket". Attorneys shall enter motions upon such docket setting forth the case number, style of the case, attorney(s) for the motion, attorney(s) against the motion, the date of entry of the motion and the nature of the motion.

(b) All motions except those during the actual trial of the case shall be entered on the motion docket. Only those motions placed on the motion docket by the close of business on the preceding Friday shall be heard.

Every motion shall be disposed of on the first call unless by consent of counsel in open court, or for good cause shown, it may be passed to the next motion day.

(c) A written motion (other than one which may be heard ex parte), and notice of the hearing thereof shall be served not later than five (5) days before the time specified for the hearing, unless a specific period is fixed by these rules or by order of the court. Such notice shall be mailed to the appropriate attorney of record or an unrepresented party's last known address. This rule shall apply in cases of judgments by default.

(d) The motion docket shall be called in each division on each Friday at 9:00 a.m.

(e) Counsel shall see that a copy of all briefs and memoranda are delivered to the Judge in chambers or to that Judge's courtroom clerk, who will deliver the same to the Judge, before they are argued, so that the Judge will have an opportunity to read them before the hearing. Filing of papers with the clerk, only, may result in the court not seeing them.

RULE SIX. MOTION FOR SUMMARY JUDGMENT AND TO DISMISS

(a) All motions for summary judgment and to dismiss shall be filed at least thirty (30) days before hearing of same. Counsel for the proponent of the motion shall deliver memorandum briefs to the Judge (with a copy of affidavits and supporting documents), and shall file with the clerk all original affidavits and supporting documents at least thirty (30) days prior to the hearing of the motion. Counsel for the respondent shall deliver memorandum briefs to the Judge (with a copy of affidavits and supporting documents), and shall file with the clerk all original affidavits and supporting documents at least ten (10) days prior to the hearing of the motion.

(b) No motions will be heard unless this rule is complied with by all parties. Provided, however, that the court, to prevent a miscarriage of justice, may extend these time limits and assess any expenses connected therewith to the party causing the delay, or may rule upon the motion without awaiting further the filing of the required documents.

RULE SEVEN. MOTIONS FOR NEW TRIAL

(a) All motions for a new trial, to alter or to amend judgments, or to reconsider rulings disposing of a case, shall be in writing and shall be entered upon the motion docket, and shall be disposed of within thirty (30) days after filing.

(b) All such motions, unless otherwise specially set by the court shall be entered on the motion docket no later than the Friday before the day upon which the motion is to be heard.

However, any Judge in his discretion, and upon notice to all attorneys of record, may take up a motion at any time, notwithstanding said motion may not have been entered on the motion docket in

accordance with this rule.

(c) The written motion for a new trial shall conform to the following requisites:

(d) Whenever a new trial is sought on the ground of error in the charge of the court, the specific error must be pointed out by quoting the particular language of the charge of which complaint is made. No general reference to the charge as erroneous as a whole shall be regarded as sufficient but the particular part of the charge complained of must be pointed out and quoted in the written motion for a new trial.

In said written motion for a new trial it shall not be sufficient to merely state in general terms that the court erred in the rejection or admission of evidence. The party seeking a new trial is required in his written motion for a new trial to point out the particular testimony admitted or rejected either by quoting the same literally or giving the substance of it or referring to it in such a manner that the exact part of the evidence complained of can be identified.

This rule shall be copied in every transcript of every case hereafter appealed from this court in which a new trial was sought on the grounds of error in the charge of the court or in the admission or rejection of evidence.

RULE EIGHT. COURT RECORDS

No court records, including exhibits, shall be taken from the clerk's office except by a Judge, or for use in the courtroom, or by written court order.

RULE NINE. STIPULATIONS

(a) No agreement, understanding or stipulation of parties or of their attorneys in any pending cause will be recognized or enforced by the court unless made in open court or in writing and filed in said cause.

(b) If, prior to the expiration of the initial time allowed for responsive pleadings under T.R.C.P. Rule 12.01, counsel for any party desires an extension of time to move or plead, one extension not to exceed the number of days originally allowed under said Rule may be obtained without court order by filing with the clerk, within the initial time period, a stipulation specifying the period of extension and signed by counsel of record. Where the time for filing a reply or responsive pleading has been fixed by court order, any extension must be obtained by order of court.

RULE TEN. ORDERS AND DECREES

(a) Unless otherwise ordered or permitted by the court, orders and decrees shall be presented for entry on the minutes within SEVEN DAYS after decision rendered. Orders and decrees shall be prepared by counsel for the prevailing party and submitted to counsel of other parties for approval of the form of the order, which shall be evidenced by the signature of counsel. In event of disagreement about same, the party disagreeing shall note objections in writing, and he may also prepare such order or decree as he considers appropriate, adhering as nearly as practicable to the wording adopted by his adversary, and both of these, together with such briefs as either counsel may desire to present therewith, shall be submitted to the court; whereupon the court will make such disposition of the matter as may be deemed proper. Consent orders shall contain the word "consent" in the caption or the body of the order, or both. When an order is presented to opposing counsel, if it correctly states the court's ruling, it is counsel's duty to approve it "as to form" and return it.

(b) All orders and decrees shall be presented in open court when called for by the court immediately after the opening of court each morning. The court in its discretion may call for the presentation of orders and decrees in open court at other times while court is in session.

(c) If the opposing party has no counsel of record, the attorney or party preparing the order shall send a copy of the order to the opposing party along with a notice of the time and place when the order will be presented to the court so that the opposing party may have an opportunity to appear and object to the wording of the order, or present his own order, as described above.

RULE ELEVEN. CONSENT ORDERS NOT REQUIRED TO BE SUBMITTED IN OPEN COURT

The following consent orders (and only these) may be submitted without presentation in open court if:

1. The lawyers physically file the orders with the Circuit Court Clerk or mail them to the clerk personally.
2. The lawyers themselves are responsible to see that their orders are placed upon the minutes of the court.
3. Self-addressed return envelopes are forwarded with orders, so that attested copies of all consent orders entered may be mailed back to the submitting lawyers.
4. All consent orders filed are actually signed by the attorneys of record so as to foreclose any question of real consent. Such consent orders shall have the word "consent" in the caption and body of the order.

Consent orders that may be submitted under the foregoing four rules are as follows:

- (a) Orders relating to alimony or support pendente lite.
- (b) Orders relating to the settlement of cases where adults only are involved.
- (c) Orders relating to dismissal of causes with or without prejudice.
- (d) Orders relating to bills of particulars in divorce cases.
- (e) Orders extending the time to answer.

Consent orders that may not be submitted under the foregoing four rules include, as examples:

- (a) Orders relating to continuances of cases for trial.
- (b) Orders relating to child support or custody, either pendente lite or permanently.
- (c) Orders relating to the settlement of minors' cases.
- (d) Orders relating to the settlement of Worker's Compensation cases.
- (e) Orders that involve the court's discretion.

[Effective July 1, 1995.]

RULE TWELVE. INTERROGATORIES AND REQUESTS FOR ADMISSIONS

(a) When answering interrogatories and requests for admissions they shall be numbered and the replying party shall, as a part of his answer, set forth immediately preceding the answer, the question or the request made, in the same numerical sequence.

(b) No party shall serve on any other party more than thirty (30) interrogatories without leave of court. For purposes of this Rule a sub-part of an interrogatory shall count as an additional interrogatory. Any motion seeking permission to serve more than thirty interrogatories shall set out the additional interrogatories the party wishes to serve, together with the reasons establishing good cause for the service of additional interrogatories. If a party is served with more than thirty interrogatories, without order of the court, he shall respond only to the first thirty.

[Effective July 1, 1995.]

RULE THIRTEEN. DOMESTIC RELATIONS MOTIONS BEFORE A DIVORCE REFEREE

(a) All domestic relations motions before or after divorce except those excluded by this Rule, shall first be heard by the Divorce Referee. To accomplish this, an order of reference shall be entered by the court.

A Divorce Referee's motion docket for such motions will be maintained in the Circuit Court Clerk's office separate and apart from the motion dockets of the several divisions of the Circuit Court. Motions will be on a form provided by the clerk and kept in a loose leaf binder.

(b) Motions will be heard eight (8) days after notice in accordance with T.R.C.P. Rules 6.04, 6.05, and 6.01 and will be heard each week on Tuesday, Wednesday, and Thursday, at 2:00 p.m. as set by the clerk. When a motion is stricken it must be refiled; however, upon application, motions can be reset for a date no later than the Thursday of the succeeding week.

(c) Motions shall not be placed on the docket until the defendant has been served with original process. Such motions shall not be mailed to the clerk.

(d) All domestic relations motions, except matters affecting child custody, visitation rights, contempt matters, possession of property and injunctions, will be heard and decided by the Referee or Deputy Referee, and the ruling will be noted on the blotter to be maintained by the Referee. At all hearings before the Referee, an affidavit of income and expenses shall be furnished by each party, showing deductions from income for taxes and social security.

(e) Orders confirming the ruling of the Referee shall be submitted to the court to which the case is assigned within seven (7) days of the Referee's ruling as provided by Rule Ten.

(f) Either party may have the motion heard by the judge on appeal. Appeals for a rehearing must be made by written motion within (10) days of the Referee's ruling, regardless of the date of the court's order affirming that ruling, provided, however, that no appeal shall be heard until the court's order has been entered. The appeal shall be heard at a time designated by the court to which the case is assigned. However, the court's order on the Referee's ruling will be in effect and enforceable pending appeal.

(g) In the event application is made to the court for modification of an order or final decree of alimony and child support and a hearing is granted upon same, it shall be referred to the Referee for a finding. If no appeal from said finding is made within (10) days as provided herein above, the finding of the Referee shall become final.

[Effective July 1, 1995.]

RULE FOURTEEN. DOMESTIC RELATIONS CASES

A. Irreconcilable Differences Procedure.

(1) At the hearing of the irreconcilable differences cases, the plaintiff shall be required to satisfy jurisdictional requirements by sworn testimony. Sworn testimony shall be required also to establish that the written agreement provides "adequate and sufficient provision for the custody and maintenance of any children of the marriage and for the equitable settlement of the property rights between the parties." The above language of the statute should be used in the decree. Child support should be expressed in dollars and cents and not in percentages.

(2) The written agreement may be incorporated in the final decree verbatim or by reference in the discretion of the court.

B. Uncontested Divorces.

(1) All suits for divorce in which the parties are agreed that the case is ready and will be tried uncontested or in which the time for answer has expired and the defendant has not appeared or answered shall be set and heard in accordance with this Rule.

(2) In divorce cases in which no responsive pleading has been filed, motion for judgment by default under T.R.C.P. 55 shall be made. Such order must also contain a certificate of service on the defendant or cross-defendant as required by T.R.C.P. 58.02. Unless there is no last known address, this certificate shall show that the copy was sent to that last known address, setting forth the address. If there is no known last address, the certificate shall specifically so state. Such order when left for the court's action will be signed as "approved" by the attorney making such application. Provided, however, that it shall remain the responsibility of counsel to see that the order has actually been signed by the Judge and filed by the clerk when signed.

(3) Divorces based on irreconcilable differences cannot be heard until sixty (60) days or ninety (90) days have elapsed since filing of the complaint in accordance with T.C.A. § 36-4-103.

(4) Unless otherwise required by law, default judgment in advance of trial is not required in irreconcilable differences divorces, but notice of the divorce hearing shall be given to the opposing party. Divorces on other grounds will not be heard until thirty (30) days after default judgment has been taken or thirty (30) days after an answer has been filed. Settings on uncontested cases may be obtained by plaintiff or cross-plaintiff's attorney from the office of the Circuit Court Clerk. Such cases will be set at 9:00 a.m. on Wednesday mornings. Whenever an attorney has represented the defendant or cross-defendant at any stage of the proceeding, attorney for plaintiff or cross-plaintiff shall give him five (5) days written notice of the date and time of the hearing.

C. Sworn Statement Pertaining to Child Custody, Child Support or Alimony.

(1) In all contested divorces or suits for separate maintenance, where no marital dissolution

agreement or property settlement is mutually agreed upon, each party shall file with the clerk within 90 days after an answer is filed, or 120 days after suit is filed (whichever is sooner), a sworn statement setting forth his or her income, a list of expenses, and a description and valuation of real or personal property possessed in any form, the state of its title, and his or her claimed interest in such property. Said sworn statement shall also include, if known, or if the information is reasonably procurable, the income and property interest of the opposing party, both real and personal, and the valuation thereof. Any changes in said statement shall be made as soon as possible, and not later than ten (10) days before the trial, unless circumstances beyond a party's control are shown.

(2) The statement shall set forth separately the amount deducted from salary for social security and income tax. Self-employed persons shall estimate these sums, using governmental guidelines and such other reliable sources as are available.

At all hearings before the Divorce Referee under Rule Thirteen, the same statement of monthly income and expenses shall be furnished by each party.

Counsel for both parties shall furnish opposing counsel a copy of the aforesaid required statements at the time of filing.

(3) In all custody proceedings the sworn statements required by T.C.A. § 36-6-210 must also be contained in the pleadings or in an affidavit attached to the pleading. (FN*)

D. Contested Divorces. Before trial of any contested divorce begins, counsel shall hand to the court a memorandum including the following:

- (1) Certification that the party's Rule Fourteen (C) affidavit of income and expenses is in the file.
- (2) Whether the client wishes a divorce, legal separation, to remain married, or to allow the other spouse to obtain one of the foregoing.
- (3) Whether grounds can be stipulated to avoid proof. T.C.A. § 36-4-129.
- (4) The names and ages of any children of the parties.
- (5) The names of the children whose custody is sought.
- (6) The nature of the visitation sought: (e.g. "reasonable" or specific). If specific, the details thereof.
- (7) The amount of child support sought.
- (8) Proposed disposition of the home.
- (9) Fair market value of home and amount of mortgage.
- (10) Proposed disposition of any other real property and their values.
- (11) Proposed division of debts.
- (12) Specific items of personalty sought, and their values.
- (13) The amount and type of alimony sought (in solido, etc.).
- (14) The amount of attorney's fee sought.

(15) Certification that the above written proposals were submitted to opposing counsel at least 24 hours before the trial.

E. Modification of Decrees. Counsel seeking a modification of any divorce decree shall present to the Judge in whose court said cause is pending a sworn petition setting forth the circumstances and conditions of the parties relied upon, and the Judge thereupon shall set a day certain for hearing of such petition. Those matters regarding modification of decrees regarding support in domestic relations matters shall be heard as provided in Rule Thirteen.

[Effective July 1, 1995; amended effective August 18, 1997.]

FN* See Appendix II for joint agreement with Juvenile Court on child support enforcement.

RULE FIFTEEN. ATTORNEYS OF RECORD

Attorneys shall place or have the clerks place their names on the docket immediately upon being employed in any case. Such attorneys shall remain counsel of record until excused by the court or until the judgment becomes final. Counsel shall keep the clerk advised at all times of their correct mailing addresses.

[Effective July 1, 1995.]

RULE SIXTEEN. NOTICE OF TRIAL DATES

The official notification of the setting of cases for trial shall be publication of court calendars in the "Daily News" of Memphis (or any other daily newspaper of general circulation in Shelby County which prints the entire docket of the court) or the posting of court calendars on the bulletin board of the offices of the clerk. Failure to receive a courtesy notice from the office of the clerk shall not be recognized as a ground for continuance.

[Effective July 1, 1995.]

RULE SEVENTEEN. KEEPING THE CLERK ADVISED

Attorneys and unrepresented parties are responsible for keeping the clerk advised of their correct mailing addresses and telephone numbers at all times. Failure to do so may result in lack of notice to a party or attorney of important court proceedings. It is not the responsibility of the court or the clerk to investigate the whereabouts of a party or attorney.

[Effective July 1, 1995.]

RULE EIGHTEEN. INVESTMENT OF FUNDS

(a) Any order, judgment or decree that provides for the investment of funds by the clerk must be brought to the attention of the clerk, Deputy Administrator or his Office Manager.

(b) It is incumbent on the attorney for the party involved in the investment of said funds to obtain from the clerk proof of such investment within seven (7) days from entry of the order, judgment or decree.

(c) Proof shall be a copy of the receipt from the financial institution where said funds are invested, and shall reflect the date and account number.

[Effective July 1, 1995.]

RULE NINETEEN. COURTROOM SECURITY

In order to insure and maintain proper security for the protection of government property and the safety of the court, court personnel, attorneys and all persons in attendance thereupon, whether as a defendant, witness, or spectator, the Sheriff of Shelby County is authorized and directed to employ all lawful and constitutional means necessary to insure the security of the courtrooms and all passages, corridors, rooms, and points of ingress and egress thereto. The Sheriff may, circumstances requiring in his discretion, establish and promulgate reasonable regulations not inconsistent with this Rule for purposes of carrying out its directive including, but not limited to, the search of all persons seeking to enter the various courtrooms of the Shelby County Courthouse Civil Divisions. Anyone seeking to enter said courtrooms not consenting to a search, of their person when requested by one lawfully authorized to conduct said search, will not be admitted. Strip body searches are not authorized. Only authorized personnel serving the court shall wear sidearms in the courtroom while court is in session. In the discretion of the Judge of each division of this court, all persons who are legally authorized to carry a firearm because of their status as law enforcement officials may wear said firearms in the courtroom if they are present only as disinterested witnesses. All other persons legally authorized to carry firearms must check their firearms with the court bailiff while they are in the courtroom, or with the nearest office of the Sheriff.

[Effective July 1, 1995.]

RULE TWENTY. ATTORNEYS AS PARTIES

In any action in which a Shelby County attorney is a real, rather than a nominal party, that fact shall be brought to the attention of the Judge by written notice, a copy of which shall be filed and delivered within thirty (30) days after the first responsive pleading in Circuit Court, or the docketing of the case in

Circuit Court (whichever is sooner), and shall describe the nature of the case, state whether a jury has been demanded, and indicate whether or not the attorney-party intends to testify. The court will then forthwith decide whether or not to request that a Judge from outside Shelby County be designated to hear the case, and will notify counsel for the parties of the decision. Nothing herein shall prevent counsel for either party from requesting that the court obtain designation of an extra-county judge.

[Effective July 1, 1995.]

RULE TWENTY-ONE. APPEARANCE OF COUNSEL PRO HAC VICE

A lawyer residing in a state with a rule similar to this one, who is licensed, in good standing and admitted to practice before the court in that state shall be permitted to file complaints, petitions, and any other cause in Circuit Court only upon certifying in writing on the instrument filed, before or at the filing, that such lawyer has not filed five or more such instruments, nor made five or more appearances in the courts of Tennessee within the past 12 months. Additionally, a lawyer licensed to practice and in good standing in the State of Tennessee must be named as associate counsel on the certification and said Tennessee associate counsel must be an active participant in all court proceedings.

[Effective July 1, 1995.]

RULE TWENTY-TWO. VOIR DIRE--EXERCISING CHALLENGES

If any party to a suit requests to challenge in writing during voir dire, challenges shall be exercised as follows:

Counsel for each plaintiff shall interrogate the prospective jury. Then, counsel for each defendant shall interrogate the prospective jury. Next, counsel for the parties will write the name of those persons challenged upon a piece of paper, indicating which party is exercising the challenge. All duplicate challenges shall be charged alternately against the number of challenges allowed to a party, beginning with the plaintiff and alternating with the parties making the duplicate challenges. The court will excuse the challenged persons and not reveal to the veniremen by whom the challenge was exercised.

Jurors not challenged at the time of submission of challenges to the court shall be deemed accepted. After challenges are exercised, the new persons called to the jury box may be examined and challenged in the same manner, until a jury is selected.

[Effective July 1, 1995.]

RULE TWENTY-THREE. CONSOLIDATION OF CASES

In instances in which consolidation of cases for trial is desirable, and the cases have been assigned to different divisions of the court by the clerk, in the absence of important reasons to the contrary, such cases shall be transferred to the division in which the case first filed has fallen.

[Effective July 1, 1995.]

RULE TWENTY-FOUR. TRANSFERS

Cases set for trial in any division of Circuit Court may be transferred on the trial date to any other division that will accept the transfer. Attorneys waiting for trial shall not leave the immediate area of the courtroom without express permission of the court. At the time of transfer, no motion should be pending before the transferring judge. When transferred, the case will remain in that division for all subsequent proceedings.

[Effective July 1, 1995.]

RULE TWENTY-FIVE. NOTICE OF COMPLEX CASES

Counsel have an affirmative duty to inform the court, well in advance of trial, of any case that is expected to be over five (5) days in length, or involves over four (4) separately represented parties, or involves complex questions of fact or law, or in which there can be anticipated a number of questions which should be resolved before selection of a jury, or which, for any other reason, reasonably requires advance notice to the court to avoid delay, confusion and error at the trial.

All reasonably anticipatable motions in limine should be filed well before the day of the trial.

Failure to abide by this rule may result in continuance of the trial, or such other action as the court deems proper.

Any party may request a pre-trial conference with the court.

[Effective July 1, 1995.]

RULE TWENTY-SIX. PRIVATE PROCESS SERVERS

If process is to be served by persons other than the Sheriff or his deputies, the return shall state clearly and legibly the name and residence address and telephone number of the process server, his or her place of business or employment and its address; his connection with the business, his or her age, the date and place where process was served, and the manner of service. It shall be signed by the server and that signature shall constitute a solemn representation to the court that the process was served as stated.

All returns shall be made upon the process paper itself, if there is room therefor. If not, the return shall be made upon a separate paper, referring specifically to the process served, and shall be physically attached to said process.

[Effective July 1, 1995.]

RULE TWENTY-SEVEN. REQUESTS FOR PRODUCTION

Where documents or things are produced for inspection, pursuant to T.R.C.P. 34, they need not be filed with the clerk. If the originals or copies of said documents or things are filed with the clerk by the responding party, the presence or absence of a document or thing among those filed with the clerk shall be determinative of the question of whether or not it was produced. If not to be filed with the clerk, the parties may agree in writing upon a repository of the documents or things produced, and the presence or absence of

the document or thing in the repository shall be determinative of the question of whether or not it was produced. The burden of establishing that matter agreed to be produced was not in fact produced shall be on the person asserting lack of production, and failure of that person to require deposit, as above, shall resolve the issue against him.

[Effective July 1, 1995.]

RULE TWENTY-EIGHT. EX PARTE PETITIONS

Before a petition for an ex parte temporary restraining order or (in domestic relations cases) a temporary injunction, may be presented to a Judge, the petitioner must give the opposing party such notice of the petition and the time and place it will be presented to the court as the circumstances permit. The petition must contain facts (not "fears") showing an emergency, the reason notice is not possible, and that the damage cannot be repaired by later, ordinary proceedings. T.R.C.P. 65; Gibson's Suits in Equity, 7th Ed., Sec. 575.

[Effective July 1, 1995.]

RULE TWENTY-NINE. AMERICANS WITH DISABILITIES

All attorneys with knowledge of a participant in the trial process with a disability requiring special accommodation are to notify in writing the clerk of the Division of Court in which the matter is to be heard, with a copy of said notice to the judges, at least ten (10) days prior to the hearing, and in no event, less than five (5) days before the hearing, in order to allow the court to comply with the letter and spirit of the Americans with Disabilities Act or the case will be continued.

[Effective July 1, 1995.]

APPENDIX 1. GUIDELINES FOR PROFESSIONAL COURTESY AND CONDUCT

MEMPHIS BAR ASSOCIATION GUIDELINES FOR PROFESSIONAL COURTESY AND CONDUCT

Preamble. A lawyer's duty to each client is to represent that client zealously within the bounds of the law. In striving to fulfill that duty, a lawyer must ever be conscious of the broader duty owed to the legal system which is designed to resolve human and societal problems in a rational and logical manner.

A lawyer owes to the judiciary a duty of candor, honesty, diligence and utmost respect.

A lawyer owes to opposing counsel a duty of courtesy, fairness, and cooperation.

A lawyer should strive to achieve higher standards of conduct than those called for by the Code of Professional Responsibility.

A lawyer owes to the administration of justice a duty of personal dignity and professional integrity.

In furtherance of these fundamental concepts, the following Guidelines for Professional Courtesy and Conduct are hereby adopted. These Guidelines are not intended nor should they be construed as establishing any minimum standards of professional care or competence. The sole purpose of adopting these Guidelines is to promote and foster the ideals of professional courtesy, conduct and cooperation set out above.

I. COURTESY, CIVILITY AND PROFESSIONALISM.

1. A lawyer should treat the opponent, the opposing party, the court and the members of the court staff with courtesy and civility, conducting business in a professional manner at all times.

2. A lawyer has no right, even when called upon by a client to do so, to abuse or to indulge in offensive conduct towards the opposite party. A lawyer should always treat adverse witnesses and parties with fairness and due consideration.

3. While in adversary proceedings, clients are litigants, and while ill feelings may exist between them, such ill feeling(s) should not influence a lawyer's conduct, attitude, or demeanor towards opposing lawyers.

4. A lawyer should do all that is necessary to ensure that clients, the public, and other lawyers respect the judicial system. To this end, a lawyer should:

(a) Never knowingly misstate fact or law, regardless of any pressure to do so.

(b) Not engage in tactics that complicate or delay matters unnecessarily.

(c) Avoid creating unrealistic expectations of a client or the public.

(d) Avoid denigrating the legal profession, the court system or adversary counsel.

5. A lawyer should encourage methods and practices which simplify and make less expensive the rendering of legal services.

6. A lawyer should never institute or pursue a legal procedure solely for the lawyer's own profit

where there is no reasonable expectation that it will advance or contribute to the best interest of the client.

7. A lawyer should preserve and respect the law by observing all duties to the community and to the Profession. To this end, a lawyer should:

(a) Contribute time and expertise to those unable to otherwise afford representation of their interests.

(b) Participate in public service and public education activities through personal involvement and financial contributions, and encourage fellow lawyers to do the same.

(c) Work to develop among lawyers a strong commitment to the ideals of integrity, honesty, competence, fairness, independence, courage, and dedication to the public interest.

8. A lawyer should recognize the importance of communication with both clients and adversaries. A lawyer should return all telephone calls and respond to all correspondence promptly.

9. A lawyer should never deceive the court or another lawyer.

10. A lawyer should honor promises or commitments made to another lawyer.

11. A lawyer should make every reasonable effort to cooperate with opposing counsel.

12. A lawyer should maintain a cordial and respectful relationship with opposing counsel.

13. A lawyer should seek sanctions against opposing counsel only where required for the protection of the client or of the legal system and not for mere tactical advantage.

14. A lawyer should not make unfounded accusations of unethical conduct about opposing counsel.

15. A lawyer should never intentionally embarrass another lawyer and should avoid personal criticism of another lawyer.

16. A lawyer should always be punctual.

II. PROFESSIONAL CONDUCT IN LITIGATION.

1. A lawyer should respect the schedule and commitments of opposing counsel, clients and the courts, thereby promoting the efficient administration of justice and public confidence in our profession. To this end, a lawyer should:

(a) Consult opposing counsel, when practical, before scheduling hearings and depositions.

(b) Avoid unnecessary continuances of trials, hearings or depositions.

(c) Immediately notify opposing counsel and the court of scheduling conflicts.

2. A lawyer should consult opposing counsel in an effort to resolve matters by agreement before filing motions or requesting hearings.

3. A lawyer should refrain from engaging in unnecessary, excessive or abusive discovery. Requests for production of documents should not be excessive or designed solely to place a burden on the opposing party.

4. A lawyer should comply fully with reasonable discovery requests and should not countenance

obstructive or evasive tactics. To this end, a lawyer should:

(a) Exchange information voluntarily, when practical, without formal discovery requests.

(b) Upon request produce all responsive documents, and produce them as they are kept in the ordinary course of business or organize and label them to correspond with the categories in the request.

5. A lawyer should stipulate to matters where they are undisputed or where no genuine basis for objection exists.

6. A lawyer should always contact opposing counsel in an effort to resolve litigation. Since most cases are ultimately settled, initiating such discussions at the outset is recognition of reality, not a sign of weakness.

7. A lawyer should make reasonable efforts to conduct all discovery by agreement.

8. A lawyer should not use any form of discovery, or the scheduling of discovery, as a means of harassing opposing counsel or an opposing party.

9. A lawyer should, when practical, consult with opposing counsel before scheduling hearings and depositions in a good faith attempt to avoid scheduling conflicts.

10. A lawyer should avoid unnecessary delays. To this end, a lawyer should:

(a) Give notice of cancellation of depositions and hearings to the court and opposing counsel at the earliest possible time.

(b) Submit any proposed order promptly to opposing counsel and attempt to reconcile any differences before presenting it to the court.

(c) Respond promptly to any proposed order submitted by opposing counsel.

11. A lawyer drafting a proposed order should reflect in it clearly and accurately the ruling of the court and nothing more.

12. A lawyer should serve copies of all briefs upon opposing counsel at the time that they are filed with the court.

13. A lawyer should not take a default judgment without first giving reasonable notice to opposing counsel or to the opposing party if not represented by counsel, of his intention to do so, and should agree to set aside such a default judgment when reasonable cause exists and his client upon his recommendation consents.

14. A lawyer should grant reasonable extensions of time to opposing counsel where such extensions will not have a material adverse effect on the rights of the client.

15. A lawyer should not attempt to obtain an advantage by informal communication with the court.

III. PROFESSIONAL CONDUCT IN BUSINESS AND COMMERCIAL PRACTICE.

1. A lawyer should determine the sophistication, goals and demands of the client before representing the client in a transaction.

2. A lawyer should ascertain and respect the scope of the negotiating authority granted by the client.

3. A lawyer should be guided by the client's goal in completing a transaction. To this end, a lawyer should:

(a) Utilize terms which are clear, concise and practical in drafting documents.

(b) Not make an issue of matters of form when revising documents. Pride of authorship, when matters of substance are not involved, only contributes to delay and cost in a transaction.

4. A lawyer should not seek tactical advantage by delaying negotiations until the last minute. To promote efficiency and fairness a lawyer should, whenever possible, treat the negotiation of a transaction and the closing thereof as mutually exclusive activities.

5. A lawyer should not use the threat of legal proceedings or of the possible effect thereof as a means of obtaining an unjustified advantage for a client.

6. When a lawyer requires as part of a transaction an opinion letter from another lawyer, it should deal only with the matters requested, any reservations being clearly stated.

[Effective July 1, 1995.]

APPENDIX 2. CHILD SUPPORT ENFORCEMENT AGREEMENT

AGREEMENT Relative to Child Support Enforcement Between The Judges and Chancellors of the 30th Judicial District and Tenth Chancery Division of Tennessee And The Judge of the Juvenile Court of Memphis and Shelby County, Tennessee

A. It appearing to the Judges and Chancellors of the Circuit and Chancery Courts of the 30th Judicial District and Tenth Chancery Division of the State of Tennessee, and the Judge of the Juvenile Court of Memphis and Shelby County that:

1. Tennessee Code Annotated Section 36-5-402(a) provides that all child support cases must be heard within thirty (30) days of the service of process.

2. Tennessee Code Annotated Section 36-5-402(b)(1)(A) provides that the presiding judge of each judicial district of this State shall appoint a referee or referees to hear all child support cases brought pursuant to Title IV-D of the Social Security Act within a prescribed, expedited time schedule.

3. The presiding judge may enter into an agreement with juvenile court to set, enforce, and modify child support orders and that, as contemplated in Tennessee Code Annotated 37-1-104(d), the Juvenile Court of Memphis and Shelby County has been designated to provide child support enforcement in the entire 30th Judicial District, consisting of Shelby County, Tennessee, pursuant to Title IV-D of the Social Security Act.

4. Referees of the Circuit and Chancery Courts in Shelby County have the authority to conduct hearings pursuant to the setting of support as prescribed in Tennessee Code Annotated Section 36-5-405, subject to review by a judge. Referees of the juvenile court have, subject to confirmation by the judge, all of the powers of trial judges in conducting child support and other proceedings.

5. Pursuant to Tennessee Code Annotated Section 36-5-402(b)(1)(B) the 30th Judicial District had in effect before October 1, 1985 a system for the appointment of referees to hear child support cases which satisfied the requirements of law and is, therefore, not required to comply with the provisions of Tennessee Code Annotated Section 36-5-402(b)(1)(A) relative to the appointment of referees.

6. To fully satisfy the requirements of State and Federal law relative to child support enforcement, there should be an agreement, as prescribed in Tennessee Code Annotated Sections 36-5-402(b)(2) and 37-1-104(d), between judges having child support jurisdiction in Shelby County, Tennessee whereby the juvenile court shall have jurisdiction in said county over all child support actions pursuant to Title IV-D of the Social Security Act.

B. WHEREFORE, it is hereby agreed that the Judges of the Circuit and Chancery Courts and the Judge of the Juvenile Court of the 30th Judicial District, which consists entirely of Shelby County, Tennessee, having concurrent jurisdiction in child support matters as provided by law, shall exercise such jurisdiction in their respective courts in furtherance of the purpose and intent of the Child Support Enforcement Act of 1985 in accordance with the terms and conditions agreed upon, which are as follows:

1. The Juvenile Court shall exercise child support jurisdiction in all cases in which an applicant or

recipient receives or authorizes payment of public assistance pursuant to Title IV-A or IV-E of the Social Security Act, and is deemed thereby, as set forth in Tennessee Code Annotated Section 14-8-124(a), to have assigned his or her support rights to the State.

2. The Juvenile Court shall also exercise child support jurisdiction in any non-public assistance case in which a person having custody of a child makes application to the Court's Child Support Bureau for assistance in obtaining child support as provided in Tennessee Code Annotated Section 14-8-124(c). In those non-public assistance cases in which the Circuit or Chancery Court had prior jurisdiction, and where it appears the most appropriate assistance would be an income assignment, the applicant will be referred to the clerk of the appropriate court for such assistance; however, this procedure will not be followed if the clerk of the court having prior jurisdiction requests in writing that the Juvenile Court handle those matters.

3. Upon evidence being presented to the Circuit or Chancery Court that an order of support has been entered in Juvenile Court, or that an application for child support assistance has been made to Juvenile Court, such Circuit or Chancery Judge will leave such cause for purposes of support in the Juvenile Court. The Circuit and Chancery Courts shall not act upon any original petition for support in a matter in which Juvenile Court has assumed jurisdiction pursuant to this agreement.

4. Cases in which the State Department of Human Services certifies to circuit or chancery court in Shelby County that an assignment of support rights has been made to the State by a public assistance recipient, as provided in Tennessee Code Annotated Section 14-8-124(b), shall be transferred to Juvenile Court.

5. In any child support case in which Chancery or Circuit Court has exercised prior jurisdiction and Juvenile Court accepts jurisdiction pursuant to either an application for assistance in obtaining child support pursuant to Title IV-D of the Social Security Act or to a case having otherwise been transferred to the Juvenile Court in accordance with Tennessee Code Annotated Section 37-1-104(d), to promptly notify the clerk of the appropriate court by forwarding to such clerk a written notice of that fact. Such notice shall contain, if known, the docket number, the names of the parties and other helpful identifying information.

6. It is the intent and purpose of this agreement that all child support matters in which the custodian of a child makes application for assistance in obtaining child support pursuant to Title IV-D of the Social Security Act, and those cases in which support rights have been assigned to the State by recipients of public assistance be dealt with in juvenile court, and that as to all other matters pertaining to child support, jurisdiction shall continue to be exercised by the circuit or chancery court which had original jurisdiction.

7. The chancery and circuit courts and juvenile court shall adopt such rules of court as they deem necessary to assure compliance with the terms of this agreement.

This agreement may be modified in writing at any time.

This agreement is entered into this 1st day of October, 1985.

[Effective July 1, 1995.]

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